

# HB0333S01 compared with HB0333

~~text~~ shows text that was in HB0333 but was deleted in HB0333S01.

text shows text that was not in HB0333 but was inserted into HB0333S01.

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Senator Lincoln Fillmore proposes the following substitute bill:

## FIREWORKS MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: {}James A. Dunnigan**

Senate Sponsor: { \_\_\_\_\_ } Curtis S. Bramble

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### LONG TITLE

#### General Description:

This bill modifies provisions related to fireworks.

#### Highlighted Provisions:

This bill:

- ▶ modifies the classification of explosives;
- ▶ provides that fire districts may issue permits to discharge fireworks;
- ▶ adds another day on which fireworks may be discharged; and
- ▶ makes technical changes.

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

None

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### Utah Code Sections Affected:

#### AMENDS:

**11-3-3.5**, as last amended by Laws of Utah 2010, Chapter 61

**15A-5-303**, as enacted by Laws of Utah 2011, Chapter 14

**53-7-202**, as last amended by Laws of Utah 2015, Chapter 448

**53-7-221**, as last amended by Laws of Utah 2023, Chapter 34

**53-7-222**, as last amended by Laws of Utah 2011, Chapter 13 and last amended by  
Coordination Clause, Laws of Utah 2011, Chapter 13

**53-7-225, as last amended by Laws of Utah 2023, Chapter 341**

**53-7-226**, as last amended by Laws of Utah 2007, Chapter 322

**76-10-306**, as last amended by Laws of Utah 2010, Chapter 61

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **11-3-3.5** is amended to read:

**11-3-3.5. Licensing of retail sellers of fireworks -- Permit required -- Fee, insurance, or bond.**

(1) (a) A municipality or county may require a retail seller to obtain a license and pay a reasonable fee before selling ~~class C~~ a division 1.4G common state-approved ~~explosives~~ explosive, as defined in Section 53-7-202, within the jurisdiction of that municipality or county.

(b) A municipality or county may not restrict the number of licenses to be issued under this section.

(2) (a) A municipality ~~or~~, county, or fire district shall require:

(i) a permit to discharge all display fireworks, special effects, and flame effects performances; and

(ii) evidence that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety.

(b) A municipality ~~or~~, county, or fire district may require a fee, insurance, or a bond before issuing a permit under this Subsection (2).

Section 2. Section **15A-5-303** is amended to read:

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### **15A-5-303. Amendments and additions to NFPA related to manufacture, transportation, storage, and retail sales of fireworks.**

(1) For purposes of this section and subject to Subsection (2), the Utah Fire Prevention Board shall adopt standards by rule for the retail sales of consumer fireworks, and in doing so, shall consider the applicable provisions of the ~~most recent~~ 2013 edition of NFPA 1124, Chapter 7, Retail Sales of Consumer Fireworks.

(2) NFPA 1124 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles:

(a) In NFPA 1124, Chapter 7, Section 7.2, Special Limits for Retail Sales of Consumer Fireworks, Subsection 7.2.8 is added as follows: "Display of [~~Class C~~] division 1.4G common state approved explosives inside of buildings protected throughout with an automatic fire sprinkler system shall not exceed 25% of the area of the retail sales floor or exceed 600 square feet, whichever is less."

(b) In NFPA 1124, Chapter 7, Section 7.2, Special Limits for Retail Sales of Consumer Fireworks, Subsection 7.2.9 is added as follows: "Rack storage of [~~Class C~~] division 1.4G common state approved explosives inside of buildings is prohibited."

(c) NFPA 1124, Chapter 7, Section 7.3.1, Exempt Amounts, Subsection 7.3.1.1, is deleted and rewritten as follows: "Display of [~~Class C~~] division 1.4G common state approved explosives inside of buildings not protected with an automatic fire sprinkler system shall not exceed 125 pounds of pyrotechnic composition."

(d) NFPA 1124, Chapter 7, Section 7.3.15.2, Height of Sales Displays, Subsection 7.3.15.2.2, is amended as follows: On line three delete "12 ft. (3.66m)" and replace it with "6 ft.".

Section 3. Section **53-7-202** is amended to read:

#### **53-7-202. Definitions.**

As used in this part:

(1) "Agricultural and wildlife fireworks" means a [~~class C~~] division 1.4G dangerous explosive that:

(a) uses sound or light when deployed; and

(b) is designated to prevent crop damage or unwanted animals from entering a specified area.

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~~[(2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.]~~

~~[(3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.]~~

~~[(4) "Class C explosive" means a division 1.4G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.]~~

~~[(5) "Class C common state approved explosive" means a firework that:]~~

~~[(a) is purchased at retail for use by a consumer; and]~~

~~[(b) is not a Class C dangerous explosive;]~~

~~[(6)(a) "Class C dangerous explosive" means a class C explosive that is:]~~

~~[(i) a firecracker, cannon cracker, ground salute, M-80, cherry bomb, or other similar explosive;]~~

~~[(ii)(A) a skyrocket;]~~

~~[(B) a missile type rocket;]~~

~~[(C) a single shot, or reloadable aerial shell; or]~~

~~[(D) a rocket similar to one described in Subsections (6)(a)(ii)(A) through (C), including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500 grams of pyrotechnic composition; or]~~

~~[(iii)(A) a bottle rocket;]~~

~~[(B) a roman candle;]~~

~~[(C) a rocket mounted on a wire or stick; or]~~

~~[(D) a device containing a rocket described in this Subsection (6)(a)(iii).]~~

~~[(b) A "class C dangerous explosive" does not mean exempt explosives.]~~

~~[(7)] (2) "Commercial cooking appliance fire suppression system":~~

~~(a) means an automatic or manual fire protection system designed for commercial cooking appliances, exhaust hoods, and ducts; and~~

~~(b) includes a commercial kitchen exhaust system attached to a fire suppression system that is designed to remove smoke, soot, toxic gases, and grease-laden vapor resulting from cooking operations.~~

~~[(8)] (3) (a) "Display fireworks" means large firework devices that consist of explosive~~

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materials that are intended for use in outdoor aerial fireworks displays to produce visible or audible effects by combustion, deflagration, or detonation.

(b) "Display fireworks" includes aerial shells, salutes, roman candles, flash shells, comets, mines, and other similar explosives.

~~(9)~~ (4) (a) "Display operator" means a person licensed under Section 53-7-223 and who is responsible for site selection, setting up, permits, overseeing assistants and support personnel, and discharging display fireworks outdoors in situations where the audience maintains a specific distance separating it from the display fireworks being discharged.

(b) "Display operator" does not mean a fire department.

(5) "Division 1.4G common state approved explosive" means a firework that:

(a) is purchased at retail for use by a consumer; and

(b) is not a division 1.4G dangerous explosive.

(6) (a) "Division 1.4G dangerous explosive" means a division 1.4G explosive that is:

(i) a firecracker, cannon cracker, ground salute, M-80, cherry bomb, or other similar explosive;

(ii) (A) a skyrocket;

(B) a missile type rocket;

(C) a single shot or reloadable aerial shell; or

(D) a rocket similar to an item described in Subsection (6)(a)(ii)(A), (B), or (C),

including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500 grams of pyrotechnic composition; or

(iii) (A) a bottle rocket;

(B) a roman candle;

(C) a rocket mounted on a wire or stick; or

(D) a device containing a rocket described in this Subsection (6)(a)(iii).

(b) "Division 1.4G dangerous explosive" does not mean an exempt explosive.

(7) "Division 1.1G explosive" means an explosive described in 49 C.F.R. Sec. 173.50 (b)(1).

(8) "Division 1.2G explosive" means an explosive described in 49 C.F.R. Sec. 173.50 (b)(2).

(9) "Division 1.3G explosive" means an explosive described in 49 C.F.R. Sec.

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173.50(b)(3).

(10) "Division 1.4G explosive" means an explosive described in 49 C.F.R. Sec. 173.50

(b)(4).

~~[(10)]~~ (11) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare, snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches in length.

~~[(11)]~~ (12) "Fire executive" means a fire chief, deputy fire chief, or other active member of a fire department or fire district who has been appointed by the elected officials of a municipality or county, by a fire district board, or by an established procedure within a volunteer fire service organization, to officially represent a fire department.

~~[(12)]~~ (13) "Fire extinguisher" means a portable or stationary device that discharges water, foam, gas, or other material to extinguish a fire.

~~[(13)]~~ (14) "Fire suppression system" means an automatic fire protection system that automatically detects fire and discharges a fire extinguishing agent onto or in the area of the fire.

~~[(14)]~~ (15) (a) "Fireworks" means:

(i) ~~[class C explosives]~~ a division 1.4G explosive;

(ii) ~~[class C dangerous explosives]~~ a division 1.4G dangerous explosive; and

(iii) ~~[class C]~~ a division 1.4G common state approved [explosives] explosive.

(b) "Fireworks" does not mean:

(i) an exempt [explosives] explosive; or;

(ii) ~~[class A explosives; or]~~ a division 1.1G explosive, a division 1.12 explosive, or a division 1.3G explosive.

~~[(iii) class B explosives;]~~

~~[(15)]~~ (16) "Flame effects" means the combustion of flammable solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience.

~~[(16)]~~ (17) (a) "Flame effects operator" means a person licensed under Section 53-7-223 who, regarding flame effects, is responsible for:

(i) storage, setup, operations, teardown, devices, equipment, overseeing assistants and support personnel, and preventing accidental discharge; and

(ii) completion of the sequence of control system functions that release the fuel for

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ignition to cause combustion and create the flame effects.

(b) (i) "Flame effects operator" does not include a person who participates in a meeting, as limited under Subsection (16)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection (16)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

~~[(17)]~~ (18) "Importer" means a person who brings ~~[class B or class C]~~ division 1.2G explosives, division 1.3G explosives, or division 1.4G explosives into ~~[Utah]~~ the state for the general purpose of:

- (a) resale or use within the state; or
- (b) exportation to other states.

~~[(18)]~~ (19) (a) "Pyrotechnic" means any composition or device manufactured or used to produce a visible or audible effect by combustion, deflagration, or detonation.

(b) "Pyrotechnic" does not mean exempt explosives.

~~[(19)]~~ (20) "Retail seller" means a person who sells ~~[class C]~~ division 1.1G, 4G common state approved explosives to the public during the period authorized under Section 53-7-225.

~~[(20)]~~ (21) "Service" means the inspection, maintenance, repair, modification, testing, or cleaning of an automatic fire suppression system.

~~[(21)]~~ (22) "Special effects" means a visual or audible effect caused by chemical mixtures that produce a controlled, self-sustaining, and self-controlled exothermic chemical reaction that results in heat, gas, sound, or light and may also create an illusion.

~~[(22)]~~ (23) "Special effects operator" means a person licensed under Section 53-7-223 who is responsible for setting up, permits, overseeing assistants and support personnel, analyzing potential hazards, setting clearances, and discharging pyrotechnic devices, either indoor or outdoor, where the audience is allowed to be in closer proximity to the pyrotechnic devices than the audience separation distance generally required for display fireworks.

~~[(23)]~~ (24) "Trick noisemaker" includes a:

(a) tube or sphere containing pyrotechnic composition that produces a white or colored smoke as its primary effect when ignited; and

(b) device that produces a small report intended to surprise the user, including a:

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- (i) "booby trap," which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;
- (ii) "snapper," which is a small paper-wrapped device containing a minute quantity of explosive composition coated on bits of sand that explodes producing a small report;
- (iii) "trick match," which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;
- (iv) "cigarette load," which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when ignited; and
- (v) "auto burglar alarm," which is a tube that:
  - (A) contains pyrotechnic composition that produces a loud whistle and smoke when ignited;
  - (B) may contain a small quantity of explosive to produce a small explosive noise; and
  - (C) is ignited by a squib.

~~[(24)]~~ (25) "Unclassified fireworks" means:

- (a) a pyrotechnic device that is used, given away, or offered for sale, that has not been tested, approved, and classified by the United States Department of Transportation;
- (b) an approved device that has been altered or redesigned since obtaining approval by the United States Department of Transportation; and
- (c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler before receiving approval by the United States Department of Transportation.

~~[(25)]~~ (26) "Wholesaler" means:

- (a) a person who sells ~~[class C]~~ division 1.4G common state approved explosives to a retailer; or
- (b) a person who sells ~~[class B explosives or class C dangerous]~~ division 1.2G explosives, division 1.3G explosives, or division 1.4G explosives for display use.

Section 4. Section **53-7-221** is amended to read:

### **53-7-221. Exceptions from Utah Fireworks Act.**

(1) Sections 53-7-220 through 53-7-225 do not apply to ~~[class A, class B, and class C explosives that are]~~ a division 1.1G explosive, a division 1.2G explosive, a division 1.3G explosive, or a division 1.4G explosive that is not for use in [Utah] the state, but [are] is manufactured, stored, warehoused, or in transit for destinations outside of ~~[Utah]~~ the state.

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(2) Sections 53-7-220 through 53-7-225 do not supersede Section 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of the state forester to close hazardous areas.

Section 5. Section **53-7-222** is amended to read:

### **53-7-222. Restrictions on the sale or use of fireworks.**

(1) (a) Except as provided in Subsection (1)(b), [~~class C dangerous explosives~~] a division 1.4G dangerous explosive may not be possessed, discharged, sold, or offered for retail sale.

(b) (i) The following persons may purchase, possess, or discharge [~~class C dangerous explosives~~] a division 1.4G dangerous explosive:

(A) display operators and special effects operators who receive a license from the division in accordance with Section 53-7-223 and approval from their local licensing authority in accordance with Section 11-3-3.5; and

(B) operators approved by the Division of Wildlife Resources or Department of Agriculture and Food to discharge agricultural and wildlife fireworks.

(ii) Importers and wholesalers licensed under Section 53-7-224 may possess, sell, and offer to sell [~~class C~~] division 1.4G dangerous explosives.

(2) Unclassified fireworks may not be sold, or offered for sale.

Section 6. Section 53-7-225 is amended to read:

### **53-7-225. Times for sale and discharge of fireworks -- Criminal penalty -- Permissible closure of certain areas -- Maps and signage.**

(1) Except as provided in Section 53-7-221, this section supersedes any other code provision regarding the sale or discharge of fireworks.

(2) A person may sell class C common state approved explosives in the state as follows:

(a) beginning on June 24 and ending on July 25;

(b) beginning on December 29 and ending on December 31; and

(c) two days before and on the Chinese New Year's eve.

(3) A person may not discharge class C common state approved explosives in the state

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except as follows:

(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:

(i) beginning on July 2 and ending on July 5; and

(ii) beginning on July 22 and ending on July 25;

(b) between the hours of 11 a.m. and 11 p.m. on:

(i) the Saturday that is within Diwali, commemorated under Subsection

63G-1-401(4)(m); or

(ii) the Saturday immediately following Diwali if Diwali does not include a Saturday;

and

[(b)](c) (i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or

(ii) if New Year's eve is on a Sunday and the county, municipality, or metro township determines to celebrate New Year's eve on the prior Saturday, then a person may discharge class C common state approved explosives on that prior Saturday within the county, municipality, or metro township;

[(c)](d) between the hours of 11 a.m. and 11 p.m. on January 1; and

[(d)](e) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.

(4) A person is guilty of an infraction, punishable by a fine of up to \$1,000, if the person discharges a class C common state approved explosive:

(a) outside the legal discharge dates and times described in Subsection (3); or

(b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

(5) (a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro township, or the state forester may not prohibit a person from discharging class C common state approved explosives during the permitted periods described in Subsection (3).

(b) (i) As used in this Subsection (5)(b), "negligent discharge":

(A) means the improper use and discharge of a class C common state approved explosive; and

(B) does not include the date or location of discharge or the type of explosive used.

(ii) A municipality or metro township may prohibit:

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(A) the discharge of class C common state approved explosives in certain areas with hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b); or

(B) the negligent discharge of class C common state approved explosives.

(iii) A county may prohibit the negligent discharge of class C common state approved explosives.

(c) The state forester may prohibit the discharge of class C common state approved explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

(6) If a municipal legislative body, the state forester, or a metro township legislative body provides a map to a county identifying an area in which the discharge of fireworks is prohibited due to a historical hazardous environmental condition under Subsection 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

(a) create a county-wide map, based on each map the county has received, indicating each area within the county in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b);

(b) provide the map described in Subsection (6)(a) to:

(i) each retailer that sells fireworks within the county; and

(ii) the state fire marshal; and

(c) publish the map on the county's website.

(7) A retailer that sells fireworks shall display:

(a) a sign that:

(i) is clearly visible to the general public in a prominent location near the point of sale;

(ii) indicates the legal discharge dates and times described in Subsection (3); and

(iii) indicates the criminal charge and fine associated with discharge:

(A) outside the legal dates and times described in Subsection (3); and

(B) within an area in which fireworks are prohibited under Subsection

15A-5-202.5(1)(b); and

(b) the map that the county provides, in accordance with Subsection (6)(b).

Section ~~67~~7. Section **53-7-226** is amended to read:

### **53-7-226. Violations -- Misdemeanor.**

A person is guilty of a class B misdemeanor if he:

(1) violates this part;

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- (2) violates any order made under this part;
- (3) produces, reproduces, or uses the official seal of registration of the division in any manner or for any purpose inconsistent with the designated purpose of the seal;
- (4) removes, uses, or damages service tags or other labels or markings in a manner inconsistent with the designated use of the service tag;
- (5) engages in the sale, storage, or handling of [~~class C fireworks~~] division 1.4G ~~explosive~~ common state approved explosives without a permit where a local government requires a permit;
- (6) sells at retail, transports, possesses, or discharges [~~class C~~] division 1.4G dangerous explosives [~~as defined in Section 53-7-202~~];
- (7) performs or intends to perform services or induces the public to enter into any obligation relating to the performance of those services that are untrue, misleading, or reasonably known to be untrue or misleading; or
- (8) builds in violation of the division's plan review or written instructions conducted on building specifications, building plans, or amendments of those specifications or plans as required under this part.

Section ~~7~~8. Section **76-10-306** is amended to read:

**76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions --  
Persons exempted -- Penalties.**

- (1) As used in this section:
  - (a) "Explosive, chemical, or incendiary device" means:
    - (i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;
    - (ii) any explosive bomb, grenade, missile, or similar device; and
    - (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a

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wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

(b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:

(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;

(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.

(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(2) The provisions in Subsections (3) and (6) do not apply to:

(a) any public safety officer while acting in an official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;

(b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) any person possessing a valid permit issued under the provisions of [~~Uniform Fire Code, Article 77~~] the International Fire Code, Section 105 and Chapter 56, or any employee of the permittee acting within the scope of employment;

(d) any person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and

(e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person is guilty of a second degree felony who, under circumstances not

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amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.

(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:

(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.

(5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.

(6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.

Section ~~8~~9. **Effective date.**

This bill takes effect on May 1, 2024.